

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DONALD J. WOODS,	§
	§
Defendant Below-	§ No. 562, 2000
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. No. VN99-07-0453-02
Plaintiff Below-	§
Appellee.	§

Submitted: March 23, 2001

Decided: April 25, 2001

Before **WALSH, HOLLAND** and **BERGER**, Justices

ORDER

This 25th day of April 2001, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Donald J. Woods, filed this appeal from an order of the Superior Court denying his motions for reduction of sentence and for credit for time served. We find no merit to the appeal.

Accordingly, we AFFIRM.

(2) On September 27, 1999, Woods pleaded guilty to Robbery in the Second Degree¹ and was sentenced to five years incarceration at Level

¹Pursuant to Superior Court Criminal Rule 11(e) (1) (C).

V, to be suspended for successful completion of treatment at the Recovery Center of Delaware, with the balance of the sentence to be suspended for Level III probation. On February 8, 2000, the Superior Court found that Woods had committed a violation of probation (“VOP”) and re-sentenced him to five years incarceration at Level V, to be suspended for five years of Level IV Home Confinement, with the remainder of the sentence to be suspended for probation at Level III. The defendant was to be held at Level V pending space availability at Level IV. On August 28, 2000, the Superior Court again found that Woods had committed a VOP and re-sentenced him to 1 year of Level V incarceration.

(3) In this appeal, Woods claims that the Superior Court improperly failed to credit him with seven months and eighteen days of time spent at Level V incarceration awaiting placement at Level IV. Specifically, he claims that this credit should have been applied to the one-year sentence for a VOP he received on August 28, 2000.

(4) Woods’ claim is without merit. The Superior Court was authorized to reimpose any previously suspended prison term when it sentenced Woods for his second VOP.² Woods does not dispute that there

²*Ingram v. State*, Del. Supr., 567 A.2d 868, 869 (1989).

was at least one year remaining on his original sentence at that time. Woods is correct that he is entitled to credit for any time spent at Level V awaiting placement at Level IV.³ He has, however, presented no evidence to suggest that he has not been given the appropriate credit for such Level V time.⁴

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice

³*Gamble v. State*, Del. Supr., 728 A.2d 1171, 1172 (1999).

⁴The Level V time remaining on Woods' sentence at the time he was sentenced for his second VOP was his Level V sentence minus any time previously spent at Level V.